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Bar # 016719

BEFORE THE ARIZONA CORPORATION COMMISSION
1200 W. Washington, Phoenix, Arizona 85007

In the matter of:

MY TRADER COIN, a.k.a. MTCoin, a.k.a. my tradercoin.com,

NOW MINING, LLC, an Arizona limited liability company,

JONATHAN SIFUENTES SAUCEDO, an individual,

MARIO E. MAGANA SOSA and ALEJANDRA SOSA, a married couple,

MOISES HERRERA and YOLANDA HERRERA, a married couple,

CARLOS PARRA and NOAHMI PARRA, a married couple,

Respondents

Case No. S-21108A-20-0181

NOTICE OF MOISES HERRERA'S NEUROPSYCHOLOGICAL EVALUATION RE: COMPETENCY TO STAND TRIAL

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COME NOW, Respondents Moises and Yolanda Herrera ("Herrera Respondents"), by and through undersigned counsel, and hereby file this Notice regarding the completion of the comprehensive neuropsychological evaluation of Respondent Moises Herrera. Mr. Herrera met in person with Dr. Deborah Gonzalez at the University of Texas, Southwestern Medical Center, 6300 Harry Hines Blvd., Dallas, Texas to conduct a comprehensive four (4) hour in person neuropsychological evaluation. Consistent with the prior physicians' statements provided to

the Court and to the Arizona Corporation Commission, Dr. Gonzalez' concludes that Mr. Herrera is not competent to participate in the two-week trial set in August of 2022. Mrs. Herrera is only named in this litigation, due to her marriage to Mr. Herrera. Mrs. Herrera speaks Spanish and has no knowledge of the facts involved in this case. Counsel for the Herrera Respondents is unable to prepare for trial given Mr. Herrera's medical condition. A true and correct copy of the comprehensive neuropsychological evaluation and report is attached and incorporated into this Notice as "Exhibit A." Accordingly, the Herrera Respondents renew their request to dismiss them from this litigation and seek such relief deemed just and appropriate.

RESPECTFULLY SUBMITTED this 19th day of May, 2022.

REYNOLDS LEGAL GROUP, PLLC

Michael T. Reynolds, Esq.
Attorney for Respondents Sosa, Herrera and Parra

An original of this
Notice of Neuropsychological Evaluation
filed on the e-docket with the ACC,
this 19th day
of May, 2022, and delivered by
email to:

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EXHIBIT A

Progress Notes

Progress Notes by Deborah M. Gonzalez, PsyD at 2/18/2022 11:45 AM

UT Southwestern Medical Center
5323 Harry Hines Blvd.
Dallas, TX 75390-8846
Office: 214.648.4646

NEUROPSYCHOLOGICAL EVALUATION

Patient Name:	Moises Herrera	**Date of Evaluation:**	2/18/2022
Date of Birth:	3/30/1952	**Handedness:**	Right
Referral:	Ramin Ansari, MD	**Education:**	8 Years

Mr. Herrera was seen for a face to face neuropsychological evaluation with all staff and patient wearing face masks and maintaining social distancing, according to COVID-19 protocol. Prior to starting services, Mr. Herrera verified double identification with full name, date of birth and consented to this evaluation.

Informed consent, including limits of confidentiality, was discussed with the patient prior to the evaluation. The patient consented to proceed with evaluation.

Neurobehavioral Status Examination

Mr. Herrera is a 69 year old, bilingual (primarily Spanish speaking), male with a 5 year history of progressive cognitive decline with significant worsening following COVID-19 illness and subsequent cardio vascular events. He was referred for this evaluation to assess his current cognitive functioning and assist with differential diagnosis and treatment planning. Background information was obtained from clinical interview with the patient, his granddaughter, Scarlet and a review of limited available records. Additionally, due to Mr. Herrera's expressive language difficulties and his granddaughter being a poor historian, patient's wife, Yolanda Herrera was later interviewed over the phone with Mr. Herrera's permission.

Cognitively, Mr. Herrera presents with a reported progressive cognitive decline that started approximately 5 years ago. His wife indicated that Mr. Herrera would misplace things often, was very repetitive, and needed increase help with management of administrative work at his church. She noted that he would lose money and important documents often. He also burned food on multiple occasions. She indicated that he was getting lost while driving or when walking outside on his own. She denied any accidents, but stated noticing scratches in the car. She reported that he would become easily frustrated or verbally aggressive when asked about difficulties, but denied other behavioral/personality changes at the time. She indicated that despite aforementioned cognitive changes Mr. Herrera was talkative, active, and continued preaching several times a week. However, following hospitalization in July

2020, due to COVID-19 infection cognitive abilities have significantly decline. According to medical records, Mr. Herrera was hospitalized for six weeks and was in an induced coma for a total of three weeks. During his hospital stay, the patient was reportedly told he had three TIA's and a myocardial infraction. He was then transferred to rehabilitation, were he participated in occupational, physical, and speech therapy due to developing expressive aphasia and right-side weakness. His wife indicated that after being release from the hospital, Mr. Herrera was able to speak with minor difficulties, but over time his speech has become incomprehensible and he has developed swallowing difficulties. In addition, his ability to ambulate independently has decline due to reported weakness and drop foot. Currently, Mr. Herrera is forgetful (e.g., forgets people and events) and confused (e.g., disoriented to time). For example, Mr. Herrera's wife reported that before the patient was hospitalized they had discussed and agree to sell their house, but after he was released from the hospital Mr. Herrera believed the house was sold without his permission. His granddaughter indicated that he forgets if he ate or if he use the bathroom. He cannot recall names or people he does not see often. At times, he refuses to take his medication. He is easily frustrated and becomes verbally and physically aggressive (e.g., screaming or swinging his arms) when he cannot communicate or when his requests are not immediately met.

Medical history includes hypertension and recurrent urinary infections since placement of catheter (last infection was reportedly a month ago). According to records from Lone Star Neurology, MRI of the brain performed on 1/15/2021, indicated age-appropriate volume loss and chronic small vessel white matter ischemic changes in the bilateral brain parenchyma. EEG performed 7/26/2021 was normal. Mr. Herrera and his wife denies the use of alcohol, tobacco, illicit drugs. Family history is significant for memory problems on his mother side including his mother and 2 siblings. His medications include: buspirone, mirtazapine, amlodipine, atorvastatin, Flomax, losartan, trazadone, and aspirin. Sleep was reported as poor during the night and increase during the day. His granddaughter explained that Mr. Herrera sleeps during the day and stays up during the night moving around and asking for food and other things.

No current outpatient medications on file.

No current facility-administered medications for this visit.

Psychiatric history includes longstanding history of anxiety, which was said to be significantly exacerbated by current difficulties. Mr. Herrera denied psychological treatment, but noted longstanding medication management of his anxiety by PCP. There is no indication of hallucinations, delusions and paranoia. Emotionally, he described his current mood as "sad." His granddaughter explained that Mr. Herrera has been sad and depressed since he returned from the hospital. She noted that the patient attempted suicide once after returning home by taking medication. However, Mr. Herrera denied any current suicidal ideations, intent, or attempts, which was confirmed by his granddaughter.

Mr. Herrera was reportedly born in Mexico, but raised mostly in Texas alongside 11 siblings. Education is unclear, but the patient reported below average grade with indication of at least attention difficulties. His wife stated that the patient attended school up to probably the 8th grade. He later completed courses/vocational studies in Mexico to become a pastor. He worked as a gardener when he was young, but later open a church and had a radio station with his wife. He was working part-time preaching until 2020 prior to hospitalization due to COVID-19. Mr. Herrera lives with his wife who is his primary caretaker. They reside mainly with his daughter Naomi, her husband and three grandchildren. Mr. Herrera spends most of the time at home and refuses to go out. He is dependent on all IADLs, and ADLs. His

granddaughter, Scarlet, is his approved home health aide.

Behavioral Observations

Mr. Herrera arrived early and was accompanied by his granddaughter, Scarlet. He presented as an adequately groomed and casually dressed male who was alert and partially oriented (disoriented to time and place, but not to self). Patient ambulated in a wheelchair with the assistance of his granddaughter. He exhibited expressive aphasia, characterized by telegraphic speech that lack prosody and was effortful, halting, and poorly articulated. In addition, Mr. Herrera evidenced difficulties with swallowing and constant drooling with lack of awareness. He exhibited loss of set and perseverations. Basic comprehension adequate, but Mr. Herrera struggled to follow complex commands. Mood and affect were sad. He was pleasant, but somewhat uncooperative as he expressed constantly that he was tired and he wanted to go home. Mr. Herrera also gave up easily during tasks and needed encouragement to continue. Due to aphasia and unwillingness to complete testing material only limited tasks and subtest could be administered. As such current limited test result should be interpret with caution.

Assessment Measures

Clinical Interview, Dementia Rating Scale Second Edition (DRS-2, selected subtests), Montreal Cognitive Assessment (MOCA- selected items) Mini Mental State Examination (MMSE- selected items), Repeatable Battery for the Assessment of Neuropsychological Status (selected subtests), Clock Drawings

Results

Conversational speech was non-fluent, but Mr. Herrera was able to provide simple responses to most questions. For example, he was able to provide the correct name of shown objects or name their color. On formal tests, comprehension of verbal and visual information was adequate (MMSE, 3/4). On a similar task on the RBANS, Mr. Herrera was also able to follow simple commands, but he struggled when provided with two steps (complex) commands (4/5). Patient was unable to copy alternating hand movements. Verbal fluency as measured by an initiation task was poor (3 word in 60 seconds) for categories. Word-finding abilities on a visual confrontation naming task were moderately impaired (RBANS=4/10; $\leq 2^{nd}$ percentile). During the latter, Mr. Herrera evidenced phonemic and semantic errors

Simple auditory attention was weak, he produced up to 3 digits forward and 2 digits backward. When asked to hit the table every time he heard a target letter, Mr. Herrera performance was poor as he tab 2 out 11 times and exhibited 2 errors. Clock drawings were problematic. Qualitatively, Mr. Herrera provided a fair circle, but was unable to place the numbers or the hands and did not benefit from a provided example. Visuospatial perception as measured by a line orientation task, was moderately impaired ($\leq 2^{nd}$ percentile). His copy of simple geometric figures were poor due to distortion of all of the figures, but he was able to write his name. Mr. Herrera also exhibited mild distortions and perseveration when asked to draw a rampart and a sequence of Os and Xs.

Processing speed on a visual scanning and sequencing task was moderately impaired (TMT-A; 1^{st} percentile, 8 errors). Basic abstract thinking and concept formation was very weak as he struggled to identify similarities and differences between 3 designs (5/16).

Learning on a 4-item visual-learning task was poor (DRS-2). It is important to note that during the encoding trial, Mr. Herrera struggled to correctly pair the designs (1 out 4 correct on each of the 4 trials).

Emotional Functioning: Self-report inventories of anxiety and depression could not be administered, but Mr. Herrera reported feeling sad, which was consistent with his affect.

Summary

Mr. Herrera is a 69-year-old bilingual (primarily Spanish speaking) male with a reported 5 year history of progressive cognitive changes, with significant worsening following Covid-19 illness and subsequent vascular events that resulted in mild expressive aphasia and right-side weakness. Although, Mr. Herrera was noted to had improved following supportive therapies (occupational, speech, and physical therapies), his wife stated that both cognitive and physical symptoms have significantly worsened after he was released. Currently, Mr. Herrera is fully dependent on all ADLs and ambulation and exhibited non-fluent aphasia, changes in handwriting, and overall decline in cognitive functioning. In addition, the patient, his granddaughter and his wife reported increased symptoms of anxiety and depression (lifelong history) following hospitalization due to Covid-19.

Current limited testing revealed deficits across domains. Specifically, Mr. Herrera evidenced difficulties with complex instruction and commands, basic attention was noted for loss of set and perseveration, he exhibited concrete thinking and processing speed was very slow. Working memory was weak and recognition of visual information was poor. Visuospatial and constructional abilities were very weak. Language abilities were noted for expressive aphasia and weak confrontation naming with paraphasic errors. In contrast, Mr. Herrera was able to follow simple instructions and exhibited adequate basic comprehension. Taken together, Mr. Herrera is a man with at least low average/average abilities (base on work attainment) premorbid abilities who evidenced difficulties across domains. His presentation suggest the presence of a **major neurocognitive disorder,** likely multifactorial in the context of significant family history of memory problems, reported 5 year history of progressive cognitive changes per wife, Covid-19 illness with subsequent vascular disease and events (TIAs and myocardial infarction), significant mood disturbances (depression and anxiety), and suboptimal effort.

Recommendations

1. Mr. Herrera should continue to receive 24 hour supervision due to physical limitations and cognitive deficits for his safety.
2. Patient will benefit from simple sentence and one step instructions and questions when others are talking to him.
3. Due to expressive difficulties because of aphasia, a communication aid such as a communication board with picture of daily activities is suggested.
4. Family will benefit from learning behavioral techniques and strategies to manage aggressive outburst due to frustration and decreased tolerance.
5. Mr. Herrera should continue to participate in psychological and psychiatric treatment for management of lifelong mood disturbance and reported aggressive behaviors.
6. Medication management of cognitive deficits should be explore with neurologist.
7. If not already completed, the patient and his wife/family partner are encouraged to discuss long-term planning, including establishing a POA and discussing placement options if he is unable to live at home, given that future cognitive/functional decline are expected. A referral to Social Work may be beneficial.
8. Monitoring of cognition over time is recommended. The current evaluation can serve as a baseline.

Thank you for the opportunity to assist in the care of this pleasant individual. Please do not hesitate to contact me at (214) 648-4646, if I can be of further assistance to you or the

patient.

Attestation Statement:
Dr. Gonzalez conducted the clinical interview/neurobehavioral status exam (2 hour) and selected tests that were conducted and scored by Cassandra Acevedo, M.S., a qualified psychometrist (2 hours), performing under the direct supervision of Dr. Gonzalez.

Neuropsychological Feedback Visit: 3/7/2022
I met in person via telehealth with Mr. Herrera's wife and daughter Evelyn to review in detail the nature of the documented objective cognitive test data documented during the patient's neuropsychological evaluation completed 2/18/2022. Specifically we discussed my diagnostic impressions and explicit recommendations determined by the patient's clinical presentation and neuropsychological profile (see report for details). We discussed possible coping strategies, community and other potential resources that might be appropriate and/or available. We discussed specific issues relating to expressive difficulties and overall cognitive deficits. Family expressed understanding of the diagnosis and recommendations, concurred with my conclusions, and indicated all questions were answered satisfactorily. A copy of the neuropsychological report was sent through My Chart for the patient. Mr. Herrera's wife was told to call me directly if any questions arose after the feedback office visit.

Attestation Statement
Dr. Gonzalez was responsible for neuropsychological testing evaluation services (3 hours) including review and integration of patient data, interpretation of standardized test results, clinical decision making, and writing of this report.

_____
Deborah M. Gonzalez, Psy.D.
Neuropsychologist
Assistant Professor of Psychiatry